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|--|--|------------------------|----------------------|
|  |  | Application Number     | 10/786,995           |
|  |  | Filing Date            | February 25, 2004    |
|  |  | First Named Inventor   | Carl R. VanderSchuit |
|  |  | Art Unit               | 2875                 |
|  |  | Examiner Name          | Jason Han            |
| Total Number of Pages in This Submission |  | Attorney Docket Number | 9053V-000008/US      |

## ENCLOSURES (check all that apply)

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## SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

|                         |                                  |                                     |                    |
|-------------------------|----------------------------------|-------------------------------------|--------------------|
| Firm or Individual name | Harness, Dickey & Pierce, P.L.C. | Attorney Name<br>Anthony G. Fussner | Reg. No.<br>47,582 |
| Signature               |                                  |                                     |                    |
| Date                    | April 4, 2006                    |                                     |                    |

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EV 639015926 US



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Application No.: 10/786,995

Filing Date: February 25, 2004

Applicant: Carl R. VanderSchuit

Group Art Unit: 2875

Examiner: Jason Han

Title: THERAPEUTIC DEVICES AND METHODS FOR APPLYING  
THERAPY

Attorney Docket: 9053V-000008US

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COMMENTS ON STATEMENT OF REASONS FOR ALLOWANCE IN OFFICE ACTION

This document amplifies Applicant's comments contained in the Amendment filed February 7, 2006 in response to the Office action mailed January 25, 2006 relating to the Examiner's reasons for allowance.

Reasons for allowance are only warranted in instances in which "the record of the prosecution as a whole does not make clear [the Examiner's] reasons for allowing a claim or claims." 37 C.F.R. § 1.104(e). In the present case, Applicant believes the record as a whole does make clear the reasons for allowance and therefore no statement by the Examiner is necessary or warranted. Furthermore, Applicant does not necessarily agree with each statement in the reasons for allowance. While Applicant believes the claims are allowable, Applicant does not acquiesce that patentability resides solely in the specific feature or combination of features identified, or that each feature or combination of features identified is required for patentability, or that equivalents of any specifically recited feature is outside the scope of the allowed claims.

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### Claims 3 and 11

The Office Action concludes that Claims 3 and 11 are allowable because the art of record fails to teach or suggest the combination of a massager within a therapeutic device incorporating phototherapy and one of heat or cold therapy to a user's body.

Applicant respectfully submits that Claim 3 is allowable because the art as a whole, alone or in combination, does not anticipate or render obvious:

A method of applying therapy with a therapeutic device, the therapeutic device including a massager, a container having a pocket on an outer surface of the container, a hot/cold gel hermetically sealed within the container, and a member removably positioned within the pocket, the member having at least one light source capable of emitting therapeutic light, the method comprising applying the therapeutic device to a user's body with the light source directed to emit therapeutic light generally toward the user's body for applying at least one of heat therapy, cold therapy, and therapeutic light to the user's body, and activating and applying the massager to the user's body.

Applicant respectfully submits that Claim 11 is allowable because the art as a whole, alone or in combination, does not anticipate or render obvious:

A therapeutic device comprising a container including a pocket on an outer surface of the container, a non-electrical agent hermetically sealed within the container for applying at least one of hot therapy and cold therapy, a member including at least one light source for emitting therapeutic light, the member being sized to be positioned within the pocket, a massager coupled to the container.

### Claims 18, 21, 48, 50, and 53

The Office Action concludes that Claims 18, 21, 48, 50, and 53 are allowable because the art of record fails to teach or suggest the combination of a flexible switch member that connects a light source to a power source within a therapeutic device incorporating phototherapy and one of heat or cold therapy to a user's body.

Applicant respectfully submits that Claim 18 is allowable because the art as a whole, alone or in combination, does not anticipate or render obvious:

A therapeutic device comprising a container including a pocket on an outer surface of the container, a non-electrical agent hermetically sealed within the container for applying at least one of hot therapy and cold therapy, and a member including at least one light source for emitting therapeutic light, the member being sized to be positioned within the pocket, wherein the container includes at least one externally flexible surface portion, and wherein the member includes a switching device that is positioned internally relative to the container's flexible surface portion when the member is positioned within the pocket such that movement of the container's flexible portion switchably connects the light source to a power source.

Applicant respectfully submits that Claim 21 is allowable because the art as a whole, alone or in combination, does not anticipate or render obvious:

A therapeutic device comprising at least one light source for emitting therapeutic light, a hot/cold gel pack, an adhesive bandage strip for attaching the device to a user's body with the light source directed to emit therapeutic light generally towards the user's body and with the hot/cold gel pack positioned to apply hot or cold therapy to the user's body, a relatively thin flexible substrate, at least one power source supported by the substrate, at least one conductive lead mounted on the substrate and electrically connecting the light source to the power source, and at least one switching device supported by the substrate for switchably connecting the light source to the power source, wherein the at least one light source is surface mounted on the substrate, whereby the substrate and the hot/cold gel pack have sufficient flexibility for allowing the therapeutic device to be bent in conformance with a contoured portion of a user's body.

Applicant respectfully submits that Claim 48 is allowable because the art as a whole, alone or in combination, does not anticipate or render obvious:

A method of applying therapy with a therapeutic device, the therapeutic device including a container having a pocket on an outer surface of the container, a hot/cold gel hermetically sealed within the container, and a member removably positioned within the pocket, the member having at least one light source capable of emitting therapeutic light, a relatively thin flexible substrate on which is surface mounted the light source, at least one power source supported by the substrate, at least one conductive lead mounted on the substrate and electrically connecting the light source to the power source, and at least one switching device supported by the substrate for switchably connecting the light source to the power source, the method comprising applying the therapeutic device to a user's body with the light source directed to emit therapeutic light generally toward the user's body for applying at least one of heat therapy, cold therapy, and therapeutic light to the user's body, and activating the switching device to activate the light source to apply therapeutic light to the user's body.

Applicant respectfully submits that Claim 50 is allowable because the art as a whole, alone or in combination, does not anticipate or render obvious:

A therapeutic device comprising a container including a pocket on an outer surface of the container, a non-electrical agent hermetically sealed within the container for applying at least one of hot therapy and cold therapy, and a member including at least one light source for emitting therapeutic light, the member being sized to be positioned within the pocket, wherein the member comprises a relatively thin flexible substrate on which is surface mounted the light source, at least one power source supported by the substrate, at least one conductive lead mounted on the substrate and electrically connecting the light source to the power source, and at least one switching device supported by the substrate for switchably connecting the light source to the power source.

Applicant respectfully submits that Claim 53 is allowable because the art as a whole, alone or in combination, does not anticipate or render obvious:

A therapeutic device comprising a container having a pocket, at least a portion of the container integrally forming at least a portion of said pocket, a non-electrical agent hermetically sealed within the container for applying at least one of hot therapy and cold therapy, a relatively thin flexible substrate removably positioned

within the pocket, at least one LED surface mounted on the substrate and capable of emitting therapeutic light, at least one power source supported by the substrate, at least one conductive lead surface mounted on the substrate and electrically connecting the light source to the power source, and at least one switching device supported by the substrate for switchably connecting the light source to the power source, whereby the container and the substrate have sufficient flexibility for allowing the therapeutic device to be bent in conformance with a contoured portion of a user's body.

Dated: April 4, 2006

Respectfully submitted,  
By \_\_\_\_\_  
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